

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

3SHAPE A/S,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 18-886-LPS
)	
ALIGN TECHNOLOGY, INC.,)	
)	
Defendant.)	

JOINT NOTICE OF *INTER PARTES* REVIEW FINAL DECISION

The Parties hereby jointly notify the Court that the United States Patent and Trademark Office’s Patent Trial and Appeal Board (“PTAB”) issued a Final Written Decision in IPR2020-01087 on January 19, 2022. The PTAB determined that all claims of U.S. Patent No. 10,349,042 (“the ’042 Patent”) asserted by 3Shape in this case are unpatentable as obvious. A copy of the decision is attached as Exhibit A.

3Shape intends to pursue review of the Final Written Decision and is currently considering filing a Request for Rehearing and/or a Notice of Appeal.

Some of the pending summary judgment and Daubert motions in this case relate to the ’042 patent:

- Align’s summary judgment motion of invalidity of the ’042 patent based on lack of written description. (D.I. 402 at 4, 13)
- Align’s summary judgment motion that certain claims of the ’042 Patent are invalid as indefinite. (*Id.* at 17)
- Align’s *Daubert* motion to exclude opinions of 3Shape Expert Dr. Zavislan that rely on anything other than the plain and ordinary meaning of “non-parallel” and “diverging.” (*Id.* at 26)

- Align's partial summary judgment motion with respect to 3Shape's claim for '042 Patent Damages for sales occurring before 3Shape provided notice of the patent. (D.I. 402 at 30)
- 3Shape's Summary Judgment Motion on the defense of no unclean hands. (D.I. 399 at 3)
- 3Shape's *Daubert* Motion with respect to Dr. Smith's opinions on the '042 Patent. (*Id.* at 24)

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